

James Madison to James Monroe, September 24, 1805. Transcription: The Writings of James Madison, ed. Gaillard Hunt. New York: G.P. Putnam's Sons, 1900-1910.

TO JAMES MONROE. D. OF S. MSS. INSTR. (*Private*).

Philadelphia September 24th 1805.

Dear Sir:

The decision of the Admiralty Courts of Great Britain disallowing the sufficiency of landing and paying duties on Colonial produce of belligerent Colonies, re-exported from ports of the United States to protect the produce against the British Cruizers and Courts, has spread great alarm among the merchants, and has had a grievous effect on the rate of insurance. From the great amount of property afloat subject to this new and shameful depredation, a dreadful scene of distress may ensue to our commerce. The subject was brought to attention by the case of the *Aurora*, which gave rise to the observations and instructions contained in my letter of the 12th of April last. I omitted in that letter to refer you to a case in Blackstone's reports, where Lord Mansfield says "that it was a rule settled by the Lords of appeal, that a transhipment off a neutral port, was equivalent to the landing of goods from an enemy's Colony, and that in the case of a landing there could be *no color* for seizure." As Mr. King's correspondence may not be in London, I think it not amiss to remind you of what passed with the British Government in 1801 in consequence of such seizures as are now sanctioned. A copy of the doctrine transmitted by the Government to the Vice Admiralty Courts as the law for their guidance is enclosed. If such a condemnation out of their own mouths has no effect, all reasonings will be lost;

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and absolute submission, or some other resort in vindication of our neutral rights, will be the only alternative left.

I hope you will have received the instructions above referred to, and that your interposition will have had a good effect. I am engaged in a pretty thorough investigation of the original principle, to which so many shapes are given, namely, "that a trade not open in peace is not lawful in War"; and shall furnish you with the result as soon as my researches are digested. If I am not greatly deceived, it will appear that the principle is not only against the law of nations, but one which Great Britain is precluded from assuming by the most conclusive facts and arguments derived from herself. It is wonderful that so much silence has prevailed among the neutral authors on this subject. I find scarcely one that has touched on it; even since the predatory effects have been known to all the world. If you can collect any publications, which can aid in detecting and exposing the imposture, be so good as to send them.

I have been here eight weeks with Mrs. Madison, who was brought hither in order to have the assistance of Dr. Physic, in curing a complaint near her knee; which from a very slight tumor had ulcerated into a very obstinate sore. I believe the cure is at length effected, and that I shall be able to set out in a few days for Washington. The President is to be there on the 2nd of October. I postpone all reflections of a public nature until I can communicate the result of his cabinet consultations. Mrs. Madison presents her affectionate respects to Mrs. Monroe.

I have the honor &c. &c.